2: Hockings E-4,5 (1962-1977) 1980
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division between nature and society was expressed in a variety of ways. Clearest perhaps was the ethical prescription that while it is evil for a Badaga to kill people he does good in the eyes of the community *and of God* if he kills Kurumbas or tigers, 'since these are both murderers' (as the matter was once explained to me). The Badagas have always been what would popularly be termed a most superstitious people: they suspect the sorcerer's artifice behind every noise in the jungle, every unexplained malady, every strange event; and they glean a multitude of tidings, both good and bad, from the everyday behaviour of snakes, crows, jackals, cattle and dozens of other creatures and conditions that surround them. A further indication of the gulf between nature and society is perhaps that in their pre-British law the severest Badaga punishment short of hanging was ostracism—expulsion from the village; and this was reserved for the enormity of incest.[2]

For an Indian peasant society the Badagas have some quite extraordinary features, fit to provide enough exotica for any undergraduate anthropology course. This fact has not been duly appreciated by the dozens of ethnologists who have come to the Nilgiris and attached themselves with passion to the colourful Todas or the shy jungle tribes. The Badagas may outwardly appear a much more 'typical' Indian farming community, and yet they do not have true subcastes or multicaste villages; they practise hypergamy *and* hypogamy even across the vegetarian boundary; several forms of polygamy are acceptable; they have a sort of young men's house; marriage is permitted across generation levels to the point where a man may in theory marry a woman *and* her daughter *and* her mother simultaneously, and villages hold a memorial ceremony once in fifty years when every member of a generation has died. Add to these features the frequent ghost exorcisms, fire-walking and occasional massacres, and the anthropologist has much to explain.

THE TERRAIN

The Nilgiri Hills, also known as the Blue Mountains, constitute a massif some 1500 sq. km. in area, situated in southern India at the juncture of the three linguistic and cultural areas of Karnatak Malabar and Tamilnad. In the British period it was an administrative unit of the Madras Presidency. Today the Nilgiris form one

2: Hockings E-4,5 (1962-1977) 1980
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177 the upper extreme for the nation in population growth, volume of
178 immigration, natural wealth, and—most important—rural literacy, education, and knowledge of the outside world.

NOTES

121 1. I have not adopted the popular but chauvinistic approach of seeking out the Aryan, Dravidian or autochthonous elements in Badaga culture—in my view, a sterile and simplistic exercise.

●681 626 2. An ostracized person would not live in the jungle, but would look for a distant hamlet where he might be accepted; see below, p. 171, 198.

[p. 10 is blank]

If one of the litigants was a Kota his headman would also take part in the council.

The proceedings would begin with statements from the contending parties. Male witnesses might then be brought to support these statements. Females and serfs[8] never appeared before the councils, but if their evidence were considered important it would be heard in private by the headman in charge. Toreas could make ~~statements and attend the meeting~~ but used not to take an active part in the council's deliberations.

A man's family and lineage would normally support him in a dispute and provided the most usual 'witnesses'. Beside their testimony other kinds of admissible evidence included written receipts, re-enactments of the event, oaths testifying to a man's innocence and pronouncements uttered by a god through the mouth of an entranced man. If necessary a postponement was allowed for additional evidence to be brought. Presentation of the evidence was followed by a council discussion, after which the headman in charge voiced his opinion and determined punishment. It was not unusual to punish both parties in a dispute.[10]

Crime and Punishment

The following partial list of punishments suggests the sanctions traditionally placed on various crimes:

Planned murder of an adult—hanging
Unpremeditated murder—Rs. 48 fine, or servitude to the victim's family
Causing someone to commit suicide—Rs. 48 fine
Failure to obey an important order of the headman—ostracism
Failure to pay a fine—ostracism
Rape of a father's wife—ostracism or Rs. 48 fine
Rape of a son's wife—Rs. 24 fine or less
Rape of a brother's wife—minimal fine
} Reduced if the woman had consented; i.e., adultery
Man beating victim with leather—Rs. 24 fine, or head shaved
Woman beating victim with boom—Rs. 24 fine, or made to parade through village with basket of ash on her head
Minor misdemeanour—bow down inside the circle of the council (the minimal punishment)
Attempted suicide—not considered an offence.

2: Hockings E-4,5 (1962-1977) 1980
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681 The preceding was never a fixed scale of punishments but rather a guide to how an offender would be treated in those times, 'all else being equal'. In each case the punishment could be mitigated according to the circumstances of the crime and the identity of the criminal. A poor man would be fined less than one of the gentry; and any man might plead poverty or haggle with the council to have his fine reduced. This is equally true today.

LOCAL ADMINISTRATION

178 657 Since the start of the last century Badagas were ruled indirectly by the British but contact with them had very little effect in the early years. The Badagas avoided the British legal system and its officers, and their own customary system continued to operate effectively until the end of the century when they subtly adapted their legal thinking to avail themselves of the Imperial system as well.

622 632 657 (631) Village government under the British régime perpetuated the existing hereditary headmen, some of whom received the title of *manegar*. The hierarchy of headmen did not enter into the British scheme for local government however; *manegars* were typically *ur gaudas*, headmen at the commune level. In the earliest days the British deemed it enough for a *manegar* to be a member of the gentry respected by the Badagas; but by the end of the nineteenth century the role of headman had been split: a *manegar* was appointed in the main communes by the District Collector,[11] while the Badagas still selected their own headmen at both the village and the commune levels.[12] The appointed *manegar* was preferably a literate man, and no longer merely someone with prestige (624) (Grigg, 1880, 366). In addition the British appointed an accountant, the *karnam*, to keep village records. Both of these roles,[13] held by Badagas responsible to an outside authority, were new to Nilgiri society and were not honoured in the spirit expected by the British 622 administration. Grigg, the Collector in 1880, noted with perhaps some exaggeration that

> The vaguest notion of their duties as village magistrate or police officer prevails among the headmen. So far from their understanding that it is their duty to repress such crime, they seem to regard it almost as a sacred duty not only to countenance and

Introduction 3

In the course of the year almost every village celebrates a dozen or so festivals, the most important of which are concerned with the agricultural cycle: *doḍḍa habba*, the Great Festival, which marks the beginning of the agricultural year in November, and *de:va habba*, the God Festival, which celebrates the harvest in July. Another festival, called *Ma:ri habba*, intended to keep smallpox away, is celebrated in a few villages by fire-walking, when selected men walk unscathed across glowing embers. There are many other lesser ceremonies marking certain transitions in the lives of members of the community. For Badagas the major events of life are the naming of a child, its first haircut, the first milking of a cow, marriage, and death. On rare occasions some villages held a huge memorial ceremony in honour of a whole generation of the dead when its last member had passed away, but the ceremony was last performed in 1936. Yet many customs and celebrations of the Badagas are still observed today, in spite of dramatic changes which have affected other parts of their lives.

They are, for example, still led by a paramount chief whose position is hereditary and who always belongs to the village of Tu:ne:ri. (The latest chief was installed in 1977.) The political power devolves from this paramount chief to the headman of each village. In between them there are many local and regional headmen: several neighbouring villages make up a commune and, taking the name of the leading village, come under the authority of that village's headman. Above these there are also four regional chiefs who each control the villages and communes within their quarter of the Nilgiris.

Each headman has his own traditional council. A commune headman has the local village headmen in his council; a regional headman has the commune chiefs in his; and the paramount chief's council (which rarely meets) is composed of all the Badaga headmen. The judicial authority of all of these councils has been much diminished by the gradual imposition of Indian law and lawcourts. The traditional legal procedure for any dispute begins at the village level and then ascends through the various councils until finally an appeal may be considered by the paramount chief. In the past, headmen could impose severe punishments which ranged from ostracism to hanging, but today all criminal offences come under the authority of lawcourts, and village headmen and councils are left to deal only with minor disputes and ceremonial duties.

The Badagas are divided socially into a number of hierarchical

692 Lingam 1957). At each successive level in this process the headman will consider the decision of the previous lower-level hearings. Usually he will offer the same judgment, yet sometimes he may not only reverse the decision but also fine the headmen who have given a "wrong judgment". This right of the superior headmen is -- or, to be more accurate, was -- an important means of social control.

178 626 692 Until the end of the last century this system was functioning to the exclusion of the official Indian legal system, for no Badaga would risk the punishment of ostracism which could be expected for taking a case to a magistrate. A 19th Century Badaga proverb warned that, "If you take a complaint to a magistrate, it is as if you had put poison in your adversary's food". During the decades that this was 681 in common use, there was a rigid set of punishments merited by specific crimes; and this was said to have replaced an earlier system of lex talionis in pre-British days. The Badagas would hang a man whom they had themselves found guilty of (682) (688) murder (unless the British officials heard about the case in time); for certain other severe crimes, including conversion to Christianity, ostracism or banishment was meted out. Apart from these punishments there were various demeaning and unproductive tasks that an offender might be ordered to perform; or his head might be shaved; or one of the standard fines could be levied. Among the Badagas of the 19th Century the only fines were in cattle, household items, foodstuffs, and coin to the value of Rs. 1/4, 1/2, 1, 3, 6, 12, 24, and 48. No intermediate or higher sums were demanded at that time; but in the present century the rates have increased and once a fine of Rs. 5000 (about $1060 U.S.) was levied by a Badaga council in a very serious case. There are detailed regulations for the fixing and payment of fines.

648 The relationship between the communities of the plateau was not solely

made explicit in the Indian Penal Code, which in this matter closely follows English common law.)

This confusing situation in effect exposes the Badagas to three different legal systems: their own indigenous one, still remembered and influential in establishing precedents; the present-day Badaga village council, which settles disputes according to a majority opinion (although the headman's own decision is really the final one), an opinion modified by the knowledge that the case might then be taken, together with the decision, before a court of law; and finally there is the hierarchy of government lawcourts.

At the lowest level in this hierarchy of lawcourts is the government-sponsored panchayat court. Its powers are outlined in the following quotations from official regulations (which are still in force):

Section 10 of Regulation XI of 1816.

First.--In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or, if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry [i.e. shelter] for a time not exceeding 12 hours...

Section 6 of Regulation IV of 1821.

First.--The powers granted to heads of villages.... to punish trivial offences, have been extended... to the punishment of petty thefts not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one rupee... (Madras 1958: 46)

Panchayat courts may, in addition to the powers to try petty civil suits of specified nature, be invested by the State Government with the power to take cognizance of and try specified offences of a trivial nature and abetment of such offences committed within the local limits of their respective jurisdiction. Such offences are affray (section 160, Indian Penal Code), voluntarily causing hurt (sections 323 and 334, Indian Penal Code), assault or using criminal force (sections 352 and 358, Indian Penal Code), theft (section 379, Indian Penal Code) and mischief (section 426, Indian Penal Code), when the value of [the] property stolen or damaged does not exceed Rs. 10 or if the Government so direct Rs. 20, insult (section 504, Indian Penal Code), some

692 nuisances under the Indian Penal Code (sections 277, 283, 290 and 510) and
671 the Madras Towns Nuisances Act, and generally any other offence under the Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months or with both.

(681) The sentence which a panchayat court may pass is [a] fine not exceeding
(685) Rs. 15, except in cases of theft or mischief where the fine may extend to twice the value of the property stolen or the amount of damage caused. (Madras 1958: 50)

Since such a multiplicity of courts, officials, regulations and legal sys-
121 tems now faces a Badaga, how does he select where to go with a legal complaint? There are a number of factors that guide his handling of the problem.

The prime consideration is apparently not the seriousness of the com-
692 plaint but the good repute of a man's own village. I know of several cases of murder and suicide which were handled entirely by the traditional Badaga council in the village where the acts were committed. This procedure contravenes Indian law, since any such criminal offences should automatically be reported to the pol-
(632) ice and if necessary be examined in a magistrate's court. (It is supposedly the headman's duty to decide whether a case should be placed before a magistrate.)

692 Badagas, on the other hand, whether siding with the victim, the malefactor, or
829 neither, prefer that all such matters be cleared up by the headman and his council without the village name being marred through a police investigation and loose gossip. For the same reason they also try to stop the case going on to the next higher level of council in their own traditional system.

Despite this state of affairs, it is very common for a case which has al-
691 692 ready been judged by the village council to be taken to a court of law by whichever side has lost; hence we characterize the present procedure as "ambi-legal". The practice has arisen because it is widely known that the decisions of a traditional village council are not legally binding and are often not very impartial either. On

9: Natesa Sastri U-5 (no date) 1892

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622 584 [623] be married to a boy in another village, the parents of the young people have to represent the matter to the Monogars of their respective villages. This is done after the courtship stage has been reached and the young people have agreed to marry one another, but even then if for any reason the Monegar forbids the contracting of the marriage the matter must at once stop, and no appeal to any higher authority is possible. Such a thing rarely occurs, but when it does there is no remedy, except that it may be possible to induce the Monegar to alter his decision by means of a judiciously administered bribe.

595 622 627 681 622 627 684 Owing to the existence of polyandry and ideas connected with it, things that would be regarded by other peoples as the gravest offences against morality are tolerated or even approved of by Badaga public opinion. Offences against the curious rules for the regulation of family life that obtain among the Badagas are brought to the village Monegar, who punishes the culprits by inflicting fines upon them. But however lax the Badagas may be in their ideas of morality within the family, they regard with the greatest displeasure and visit with the severest punishment any one who goes astray with a man of another caste, even though he be of the Brahman caste. The village Monegar conducts an enquiry, and if he finds the guilt of the accused person proved, he pronounces sentence of excommunication, and the unfortunate woman loses her caste and is driven from the community.

622 627 586 [623] 586 The village Monegar is also president of the divorce court—for, as was stated in my previous article, divorce, which is not uncommon in the Badaga community, can, after the cord-tying ceremony has been performed, be granted only by a regular decision of the Monegar and his village council. If a man and his wife do not like one another they have to bring the matter before the Monegar. He assembles a court, and himself acting as its president sanctions a separation or deals with the matter otherwise. If separation is ordered the person who is to take the divorced woman as his wife returns the *Sîla hanê* or cloth money (Rs. 1¼), and the price originally paid to her by her first husband. The children, if there be any, belong to the father. The woman if she dislikes her second husband may apply for a second separation. Society does not look upon her as a bad woman because of these divorces or separations, and recognises all her children as lawfully born Badagas.

621 622 623 735 One more illustration may be given of the functions of the Monegar and the village council. If any Badaga family becomes very